

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

MINNY FRANK, )  
                  )  
                  Plaintiff, ) Civil No. 11-6402-AA  
                  )  
                  v.         ) ORDER  
                  )  
CASCADE HEALTHCARE, )  
COMMUNITY, INC., et al., )  
                  )  
                  Defendants. )

---

AIKEN, Chief Judge:

Plaintiff moves for appointment of counsel. Generally, there is no constitutional right to counsel in a civil case. United States v. 30.64 Acres of Land, 795 F.2d 796, 801 (9th Cir. 1986). However, pursuant to 28 U.S.C. § 1915(d), this court has discretion to request volunteer counsel for indigent plaintiffs in exceptional cases. Id., Wood v. Housewright, 900 F.2d 1332, 1335 (9th Cir. 1990); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). While this court may

request volunteer counsel in exceptional cases, it has no power to make a mandatory appointment. Mallard v. U.S. Dist. Court of Iowa, 490 U.S. 296, 301-308 (1989).

In order to determine whether exceptional circumstances exist, this court evaluates the plaintiff's likelihood of success on the merits and the ability of the plaintiff to articulate his or her claim pro se in light of the complexity of the legal issues involved. Wood, 900 F.2d at 1335-36; Wilborn, 789 F.2d at 1331; Richards v. Harper, 864 F.2d 85, 87 (9th Cir. 1988) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). However, "[n]either of these factors is dispositive and both must be viewed together before reaching a decision on request for counsel under section 1915(d)." Wilborn, 789 F.2d at 1331; Terrel v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991).

Plaintiff has demonstrated a sufficient ability to articulate her claims, in fact, she has already contacted at least one attorney and raised the issue of pro bono representation. At this stage of the proceeding, there are no exceptional circumstances that require the appointment of counsel under § 1915(d).

///

///

///

Based on the foregoing, plaintiff's Motion for Appointment of Counsel (#3) is denied.

IT IS SO ORDERED.

DATED this 27 day of January 2012.

  
\_\_\_\_\_  
Ann Aiken  
United States District Judge